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No. 334

October Term, 1968

IN THE SUPREME COURT OF THE UNITED STATES

WILLIS O. MIZNER,

Petitioner,

vs.

RUTH E. MIZNER,

Respondent.

PETITION FOR REHEARING

Richard C. Minor
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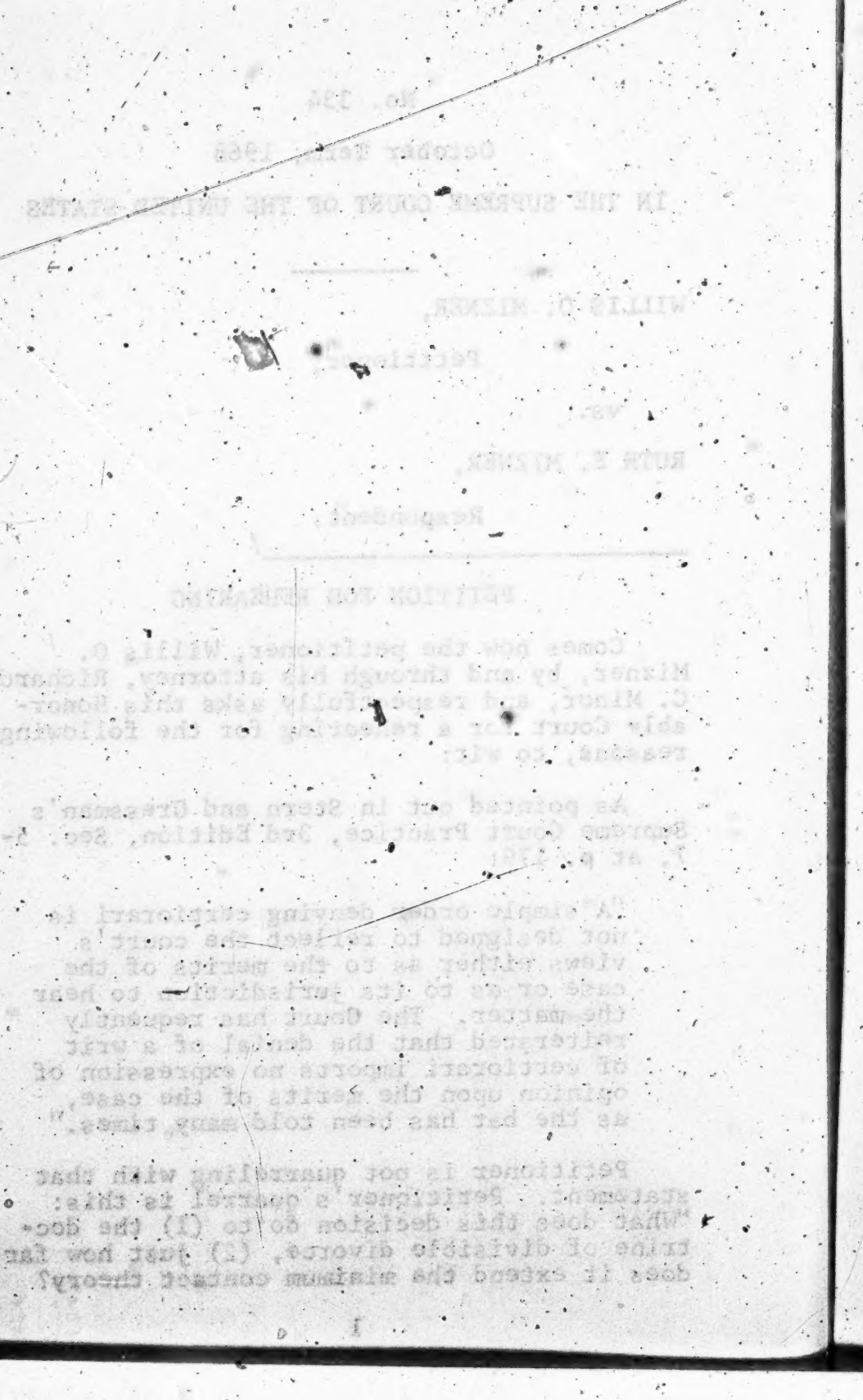
Comes now the petitioner, Willis O. Mizner, by and through his attorney, Richard C. Minor, and respectfully asks this Honorable Court for a rehearing for the following reasons, to wit:

As pointed out in Stern and Gressman's Supreme Court Practice, 3rd Edition, Sec. 5-7, at p. 179:

> "A simple order denying certiorari is not designed to reflect the court's views either as to the merits of the case or as to its jurisdiction to hear the matter. The Court has requently reiterated that the denial of a writ of certiorari imports no expression of opinion upon the merits of the case, as the bar has been told many times."

Petitioner is not quarreling with that statement. Petitioner's quarrel is this: What does this decision do to (1) the doctrine of divisible divorce, (2) just how far does it extend the minimum contact theory?



This court can take judicial notice of the fact that we are living in a migratory age. In many divorce suits service is by publication with personal service, if any, outside of the jurisdiction in which the suit is brought. Does this decision mean that henceforth service by publication coupled with personal service outside the state in which the suit is filed can be the basis of an alimony judgment entitled to full faith and credit in other states? If it does, then new law has been made and Vanderbilt v. Vanderbilt, 1 L.Ed. 2d. 1456 has been overruled.

If Vanderbilt is to be overruled, it is in the interest of lawyers everywhere that it be specifically overruled. Attorneys from all over the United States have expressed interest in the Mizner decision. These attorneys would like to be able to properly advise clients, and judges would like to know what the law is so as to apply it correctly.

With reference to the minimum contacts doctrine, three justices of the Supreme Court of Nevada have held that the minimum contacts doctrine applies to domestic relations cases; two justices of the Supreme Court of Nevada have held that the minumum contacts doctrine does not apply to domestic relations cases. Since denial of certiorari is not an expression on the merits those questions remain unanswered and they should be answered.

WHEREFORE, petitioner prays that this Honorable Court either grant rehearing and allow this matter to be briefed and orally argued (in this connection the concurring opinion of Mr. Justice Jackson in McGrath v. Kristensen, 95 L.Ed. 173, at 184, cites numerous examples in which courts and judges have reversed themselves), or state why certiorari was denied.

Respectfully submitted,

Richard C Minor

Richard C. Minor
Attorney for Petitioner

CERTIFICATE OF COUNSEL

I, Richard C. Minor, certify that I am the attorney for the petitioner herein; that I prepared the foregoing Petition for Rehearing; that I assume the full, sole and complete responsibility for the contents of the same; that it is filed in good faith and not for the purposes of delay.

Richard C Minor

Richard C. Minor